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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,401	02/07/2001	Micheal Barnum	BARN-0166	5256
5251	7590	06/28/2005	EXAMINER	
SHOOK, HARDY & BACON LLP 2555 GRAND BLVD KANSAS CITY,, MO 64108			SOTOMAYOR, JOHN	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/778,401	BARNUM, MICHEAL
	<b>Examiner</b>	<b>Art Unit</b>
	John L. Sotomayor	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-23 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 1, 2005 has been entered.

In response to the amendment filed April 1, 2005, claims 1-23 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-2 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp, Jr. (US 5,585,612) in view of Walker et al (US 6,443,843).

Regarding claim 1, Harp, Jr. discloses a voting device in the configuration of a kiosk that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter (Col 2, lines 25-63), as well as a first input device wherein the user inputs information via a first physical action (Col 2, lines 65-67) and a second input device wherein the user inputs information via a second physical action (Col 4, lines 13-16). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49) and a recording device to record information input by the user (Col 2, lines 56-63). Harp, Jr. does not specifically disclose that the two user inputs from physical actions of a user are via a first body part and a second body part. However, Walker et al teaches a kiosk that accepts inputs from a user via a first body part, a hand, and a second body part, a detection of a vocal utterance (Col 2, lines 37-60), which is using the vocal chords, a second body part, to provide the physical action for activating the kiosk device. Therefore, it would have been obvious to one of ordinary skill in the art to provide a kiosk voting device that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter, as well as a first input device wherein the user inputs information via a first physical action and a second input device wherein the user inputs information via a second physical action as disclosed by Harp, Jr. with the means to collect two

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user inputs from physical actions of a user are via a first body part and a second body part as taught by Walker et al for the purposes of providing access to the kiosk to persons who have a physical handicap that limits the use of physical input means.

Regarding claim 2, Harp, Jr. discloses that the information retained for output to the user is ballot information (Col 2, lines 31-35) and that the information recorded is ballot selections (Col 2, lines 56-63).

Regarding claim 21, Harp, Jr. discloses a kiosk with a first input device such that a user inputs information via the first input device using a hand motion and a second input device such that a user inputs information via the second input device using a physical action other than a hand motion (Col 4, lines 10-17).

4. Claims 3-10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp, Jr. in view of McClure et al (US 6,250,548).

Regarding claims 3 and 9, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. does not specifically disclose that the storage and recording device comprise a computer hard drive. However, McClure et al teaches that a voting device may use a computer hard drive as a storage and recording device for the convenience of the voter (Col 4, lines 45-57). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with a computer hard drive as a means of storing and recording voter information and vote selections as taught by McClure et al for the purposes of optimizing said device for use by disabled persons by providing computerized input and output devices.

Regarding claim 4, Harp, Jr. discloses a voting device in the configuration of a kiosk that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter where the actions required differ for each sense that is impaired (Col 2, lines 25-63). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49) and a recording device to record information input by the user (Col 2, lines 56-63). Harp, Jr. does not specifically disclose that a computer is used to process ballot information and selections, or that the recording and output devices are operably connected to the computer or that the two user inputs from physical actions of a user are via a first body part and a second body part. However, Walker et al teaches a kiosk that accepts inputs from a user via a first body part, a hand, and a second body part, a detection of a vocal utterance (Col 2, lines 37-60), which is using the vocal chords, a second body part, to provide the physical action for activating the kiosk device. Also, McClure et al teaches that a computer system is preferentially used to operate an electronic voting system that has recording and storage devices for information dissemination and vote recordation operably connected to the computer system (Col 4, lines 22-44). Therefore, it would have been obvious to one of ordinary skill in the art at to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with the means to collect two user inputs from physical actions of a user are via a first body part and a second body part as taught by Walker et al and with an electronic voting system adapted for use by handicapped voters in which different input and output devices are used based upon the sense that is to be augmented, and to provide a central computer with recording and storage devices for information dissemination and vote recordation operably

connected to the computer system as taught by McClure et al for the purposes of providing an electronic voting system adapted for use by disabled persons by providing computerized input and output devices.

Regarding claim 5, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. does not specifically disclose that a touch sensitive screen is incorporated into the electronic voting system. However, McClure et al teaches that one of the devices used in the electronic voting system may be a touch sensitive screed, as well as a plurality of other existing screen technologies (Col 18, lines 5-11). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. to include a touch sensitive screen for use in voting as taught by McClure et al for the purposes of providing a touch sensitive screen to gather vote selection input.

Regarding claim 6, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third output device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote with an electronic voting system with a third output device to accommodate a user's third sense, different from a first and second sense.

Regarding claim 7, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system designed

to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 46-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art to provide an electronic voting system with a third input device to accommodate a user's third physical action, different from a first and second physical action.

Regarding claim 8, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 46-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art to provide an electronic voting system with a third input device and a third output device to accommodate a user's third physical action, different from a first and second physical action.

Regarding claim 10, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. does not specifically disclose that the recording device comprise a printer. However, McClure et al teaches that a voting device may use a computer printer to produce a graphical ballot overlay and the subsequent ballot used for vote recordation (Col 29, lines 6-28). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with a printer device as a means of creating a physical ballot and recording voter information and vote selections as taught by McClure et al for the purposes of optimized use by disabled persons by providing computerized output devices.

Regarding claim 22, Harp, Jr. discloses a kiosk with a first input device such that a user inputs information via the first input device using a hand motion and a second input device such that a user inputs information via the second input device using a physical action other than a hand motion (Col 4, lines 10-17).

5. Claims 11-20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harp, Jr. in view of Walker et al in view of McClure et al (US 6,250,548) in further view of Sarner et al (US 5,666,765) in further view of Trotta et al (US 5,072,999).

Regarding claim 11, Harp, Jr./Walker et al discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote using two physical input means using a first and a second body part. Harp, Jr. discloses an electronic voting system with a canopy portion affixed to the case, a back face, left face and right face affixed to the back face and abutting the canopy without being permanently secured thereto (Fig. 1), that has a plurality of input and output devices to provide voting information to a handicapped voter, including tactile, audio and visual means, and to collect voting decision output from said voter where the actions required differ for each sense that is impaired (Col 2, lines 25-63), as well as a first input device wherein the user inputs information via a first physical action (Col 2, lines 65-67) and a second input device wherein the user inputs information via a second physical action (Col 4, lines 13-16). Harp, Jr. also discloses a storage device to retain information for output to the user (Col 2, lines 43-49) and a recording device to record information input by the user (Col 2, lines 56-63). Harp, Jr. does not specifically disclose that the voting system frame has a base with at least two telescoping legs with attached wheels, and vertical rods extending upward, or a top face affixed to the canopy, or a front face hingedly affixed to the top face. Harp, Jr. also does not specifically

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disclose that a computer is used to process ballot information and selections, or that the recording and output devices are operably connected to the computer. However, Sarner et al teaches a portable voting booth for use by handicapped individuals that has a base with at least two legs capable of extending telescopically. Also, Trotta et al teaches a portable voting booth with wheels affixed to the bottom of the frame, a top face affixed to a canopy portion of the frame (Fig. 1 and Fig. 8) and a front face in two portions hingedly affixed to the left and right faces of the frame, the front face opening outward (Fig. 7). It is a matter of design choice as to whether the front face should open side to side, or upward and fold over the top in order to provide front access to the voting system contained within the voting frame and enclosure. McClure et al teaches that a computer system is preferentially used to operate an electronic voting system that has recording and storage devices for information dissemination and vote recordation operably connected to the computer system (Col 4, lines 22-44). Therefore, it would have obvious to one of ordinary skill in the art to provide a voting system using two physical input means using a first and a second body part as disclosed by Harp, Jr./Walker et al with a frame designed for portability and ease of access and use by handicapped individuals as taught by Sarner et al and Trotta et al, additionally, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system adapted for use by handicapped voters in which different input and output devices are used based upon the sense that is to be augmented, and to provide a central computer with recording and storage devices for information dissemination and vote recordation operably connected to the computer system for the purposes of providing readily available voting information and ballot collection from voters whose one or several senses may be impaired due to a handicap.

Regarding claim 12, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. does not specifically disclose that a touch sensitive screen is incorporated into the electronic voting system. However, McClure et al teaches that one of the devices used in the electronic voting system may be a touch sensitive screed, as well as a plurality of other existing screen technologies (Col 18, lines 5-11). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. to include a touch sensitive screen for use in voting as taught by McClure et al for the purposes of utilizing a touch sensitive screen to gather vote selection input.

Regarding claim 13, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third output device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an electronic voting system with a third output device to accommodate a user's third sense, different from a first and second sense.

Regarding claim 14, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses a first compartment within the box frame wherein the electronic voting device, including recording device and storage device are located. Harp, Jr. does not specifically disclose a first door allowing access to a second compartment through the back face, a second compartment for storage, or a second door

allowing access to the second compartment through the back face. However, Trotta et al teaches a voting enclosure with a plurality of compartments all of which are accessible through a first and second door in the back face (Fig. 7). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with an electronic voting system with a frame having a plurality of compartments for storage of voting devices and accessible through a first and second door in the back face as taught by Trotta et al for the purposes of achieving optimized use of the voting apparatus for handicapped persons.

Regarding claim 15, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. does not specifically disclose a space within the interior of the box wherein input and output devices may be positioned when the apparatus is in use. However, Trotta et al teaches a plurality of compartments within the frame with open space used for positioning input and output devices used for the recordation of ballots when the apparatus is in use (Fig. 6). Therefore, it would have been obvious to modify the portable frame set forth by Harp, Jr. with the frame teachings in Trotta et al to provide a frame with a plurality of compartments with space between the compartments where input and output devices could be partitioned when the system is in use. The electronic voting system described by Harp, Jr. has a portable frame that would achieve optimized use for handicapped persons by implementing the teachings of Trotta et al.

Regarding claim 16, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system with the ability to take input from users in formats that are non-standard (Col 3, lines 36-42). Harp, Jr.

does not specifically disclose that the electronic voting system may receive auxiliary input from a peripheral device supplied by the voter. However, McClure et al teaches an electronic voting system with a plurality of peripheral interfaces that are available for use with peripheral devices regardless of who supplies the device (Col 11, lines 60-62). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with an interface in the system as taught by McClure for the purposes of providing a plurality of peripheral interfaces for the convenience of handicapped voters.

Regarding claim 17, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system in which the input and output devices that make up the voting system are moveably positioned using two adjustable position support arms connected to the voting apparatus (Fig. 1, item 44).

Regarding claim 18, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system in which a telescoping curtain rod attached to the top may be extended outwardly and a curtain affixed thereto to substantially obscure a voter using the apparatus from others (Fig. 1, item 206). Harp, Jr. does not specifically disclose that the telescoping curtain rod is attached to the canopy. However, Trotta et al teaches that the canopy is the uppermost portion of the voting booth and is used to assist in obscuring the identity of the voter (Fig. 5). Therefore, it would have been obvious to one of ordinary skill in the art to provide a stand-alone apparatus and method for assisting physically impaired voter to cast a vote as disclosed by Harp, Jr. with an obscuring curtain attached to the uppermost portion of the voting booth, the canopy, to provide the

maximum visual protection for users of the system as taught by Trotta et al for the purposes of providing for greater protection of voting results.

Regarding claim 19, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 62-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art to provide an electronic voting system with a third output device to accommodate a user's third physical action, different from a first and second physical action.

Regarding claim 20, Harp, Jr. discloses a stand-alone apparatus and method for assisting physically impaired voter to cast a vote. Harp, Jr. discloses an electronic voting system designed to accommodate voters with disabilities to a plurality of senses. The system discloses a first, second and third input device to accommodate vote selection from users through touch, sight or audio senses (Col 1, lines 46-67 and Col 3, lines 5-20). Therefore, it would have been obvious to one of ordinary skill in the art to provide an electronic voting system with a third input device to accommodate a user's third sense, different from a first and second sense.

Regarding claim 23, Harp, Jr. discloses a kiosk with a first input device such that a user inputs information via the first input device using a hand motion and a second input device such that a user inputs information via the second input device using a physical action other than a hand motion (Col 4, lines 10-17).

Applicant's arguments filed April 1, 2005 have been fully considered but they are not persuasive. The applicant presents the argument that the cited prior art does not disclose using a single device in which a user may utilize two or more different physical actions to receive an input from a user. The Examiner would like to point out that the claim language does not recite such a limitation in any of the independent claims. Therefore, in using the broadest reasonable interpretation of the presented claim language the Examiner maintains that the references, as cited, teach and suggest the invention as claimed. The argument is therefore unpersuasive.

The applicant also presents the argument that the cited references do not teach or suggest using different types of input means in a single device to accommodate individuals with differing physical abilities. However, once again, the claim language presented does not limit the invention to a single device with different input means within said device, except that the devices are all collected within a single kiosk. The prior art teaches the limitations recited in the presented claims and the argument is therefore unpersuasive.

Applicant's arguments are therefore unpersuasive in the aggregate and the claim rejections are maintained.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Sotomayor whose telephone number is 571-272-4456. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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